

CHAPTER 11.05 MOSIER PIONEER CEMETERY

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11.05.010 Purpose and Policy. Pursuant to the authority of ORS 226.410 to 226.450, the City of Mosier owns and operates Pioneer Cemetery (the "Cemetery"), located within the City's corporate limits. This chapter is adopted to implement this authority and govern the City's use and operation of the Cemetery. The city council may adopt by resolution, and amend from time to time, specific operational policies for Cemetery that are consistent with the provisions of this Chapter and state law. The plats of Cemetery that are on record in the office of the City Recorder at the time this chapter is adopted are hereby ratified and declared to be the official records of the Cemetery. Interments after the effective date of this ordinance are limited to burial of cremated remains or scattering of ashes as provided by regulations properly adopted.

11.05.020 Definitions. The following definitions shall apply to this chapter:

- A. Cemetery Superintendent:** A person appointed by the City to have day-to-day management and maintenance authority over the Cemetery and shall be responsible for the administration, rules, regulation and policies adopted by the City Council concerning the Cemetery. The Superintendent shall work with the Mosier Pioneer Cemetery Advisory Committee (Cemetery Committee) on the management, care, and operation of the Cemetery.
- B. Cemetery Objects:** Objects in the cemetery including grave markers, fences, and other funerary objects.
- C. Cremains:** The remains of a cremated human body.
- D. Disinterment:** Removal of human remains from an interment space.
- E. Grave markers:** A permanent fixed object placed to indicate a location of a grave (also headstone, monument, memorial, marker, and tablet).
- F. Interment:** The permanent disposition of the remains of a deceased person by burial.
- G. Lot:** Cemetery "lot" means a lot, plot, space, or grave used or intended to be used for the interment of human remains (cremains only in the Cemetery).
- H. Mosier Pioneer Cemetery Advisory Committee:** A group of volunteers, appointed by the City Council, that meets regularly on a long-term basis to provide advice and/or support to the City and Cemetery Superintendent about the management, care, and operation the Cemetery.
- I. Owner:** The person has been issued a right of interment by the City.

J. Ownership: Limited to the right of interment in a burial lot and includes no other elements of title ascribed to real estate by law.

K. Right of Interment: Refers to the approval given by the City at the time of need to the right of interment of cremains in a designated burial lot. This does not convey title in any form to the lot (land), and only represents the right to inter human cremains in a specified burial lot.

L. Scatter Garden: The location set aside is used for the spreading or broadcasting of cremated remains that have been removed from their container and can be mixed with or placed on top of the soil or ground cover on a comingled basis and that are non-recoverable.

11.05.030 Fees: Fees that carry the right of interment are under administrative control of the City Recorder, subject to the rules and regulations of the Cemetery Committee and the general supervision of the City Council.

A. Lot Fees. Fees for a single lot allows for the interment of up to four cremation urns.

B. Fee Schedule. Fees for interments, dis-interments, scatter garden plaques, and scattering of cremains shall be posted by the city on a schedule annually (attached separately). The City Council shall establish by resolution, and may from time to time, amend the fee for interments or the scattering of remains in the Cemetery, and all services rendered by the City.

C. Fee Paid in Full. The Superintendent shall not authorize the right to interment in a specific lot until the fee is paid in full. However, if interment is not completed and the responsible party requests a refund, the Superintendant may issue a refund.

D. Fees Non-Refundable: Except as provided in subsection C, all fees paid are final and not refundable. Fees are not transferable and are not refundable once interment has occurred.

11.05.040 Right of Interment. The following limitations shall apply to interments and the acquisition of burial sites in the Cemetery:

A. Sale. There will be no sale or purchase of burial lots; fees for lots shall be by right to interment only. The title and real estate remain with the City of Mosier.

B. As Needed. The right to interment shall be established only at the time of need based upon payment of the fee in effect at that time.

C. Limits: Additional interments in one lot shall be limited to those approved by the lot's original purchaser, or the original purchaser's legal representatives.

D. Number of Interments: One lot may contain up to four cremains interments.

E. Certificates: Certificates for rights of interment in specified lots shall be signed by the City Recorder on behalf of the City and issued upon payment of the proper price thereof.

F. Lots: Zones detailing available lots for interments shall be maintained by the Superintendent. Specific lots shall be allocated at the time of payment of the fee.

G. Change of Address: It shall be the duty of the personal representative of the person interred to maintain with the City Recorder the personal representative's current address and to notify the City Recorder of any address changes. Any notice sent to the personal representative at the most recent address provided to the City Recorder shall be deemed sufficient and proper legal notification for every purpose.

11.05.050 Control of Disinterments: The remains of a deceased person interred in a lot may be removed with the consent of the Cemetery Superintendent and written consent of the person holding the right to control the disposition of the remains of the deceased person. If the consent of the person holding this right cannot be obtained, permission by the Wasco County Court shall be sufficient. The person requesting a disinterment shall provide to the Cemetery Superintendent written notice of application to the Wasco County Court at least 60 days prior to the proposed disinterment date. Disinterment may also be performed pursuant to an Order issued by the Wasco County Circuit Court or the County Coroner. Notwithstanding the wording of this section, it is the intent of the City to maintain this property as a cemetery in perpetuity.

11.05.060 Repossession of Lots: The City may repossess any unused lots if interment is not completed within 12 months of obtaining the right to interment. Unused lots would then return to availability and administration by the City.

11.05.070 Application for Service: To apply for interment, disinterment or removal of cremated remains, the person with authority over the cremated remains shall apply in writing to the City Recorder. The applicant shall provide documentation that party has legal authority over the remains. Failure to provide adequate proof will be sufficient grounds to postpone or deny the requested service.

11.05.080 Cemetery Superintendent and Cemetery Advisory Committee: The position of Cemetery Superintendent is hereby created and shall be filled by appointment by the Mayor with the concurrence of the City Council. The City shall budget reasonable expenses for the position of Cemetery Superintendent and operation of the Cemetery.

The Pioneer Cemetery Advisory Committee is hereby created to advise the City and Cemetery Superintendent on the management, operation, and care of the Cemetery. Committee members shall be appointed by the Mayor with the concurrence of the City Council.

The Cemetery Superintendent shall have day-to-day management and maintenance authority over the Cemetery and shall be responsible for the administration of this Chapter and any applicable rules, regulations or policies adopted by the City Council. In particular, the Cemetery Superintendent, in coordination with the Cemetery Committee, shall be responsible for the following duties:

A. Management. The Superintendent shall ensure that the Pioneer Cemetery Management Plan is complied with in all activities undertaken at the cemetery. The Superintendent shall notify the Pioneer Cemetery Advisory Committee prior to undertaking any physical activities in the cemetery.

B. Control of Work. The Superintendent shall be responsible for and oversee all landscape maintenance, care, and improvements of any kind of lots, the planting, trimming and maintenance of all trees, shrubs and groundcover plants and all interments and disinterments. No interments, disinterments, or removals shall be done without the prior approval of the Superintendent, in consultation with the City Recorder, and the Pioneer Cemetery Committee.

C. Receipt of Applications. The Superintendent shall be responsible for the receipt, review and decision on all applications for interment and scatter garden use.

D. Record Management. The City Recorder and the Cemetery Superintendent shall be jointly responsible for maintaining the following records. The City of Mosier shall not be responsible for the accuracy of any record maintained previous to the City's acquisition and control of the cemeteries, nor any record dependent upon submission prior to the effective date this ordinance.

1. Maps. The City Recorder and the Cemetery Superintendent shall maintain at least three copies of a map showing all burial information and right of interment ownership for the Mosier Pioneer Cemetery. One copy shall be kept on file with the City Recorder; one in the City vault; and one shall be maintained in current order with the Cemetery Superintendent. The Cemetery Superintendent and City Recorder shall update all the maps after each interment or disinterment.
2. Lot Records. The City Recorder is authorized to acquire and maintain suitable record books, which shall be designated as the "Pioneer Cemetery Lot Records," for maintaining a record and index of all cemetery lots that have been or may in the future be created. The City Recorder shall also maintain a record of the address of each personal representative of interred persons. This record shall be updated when the Recorder is provided new addresses.
3. Interment Register: An interment register containing a cumulative record of burials, showing the date of interment, the name, place of death, name and address of the funeral director (if any), block, lot and grave number.
4. Burial Record. A burial record including the current index for each person interred, with the name and date of burial, block, lot and grave number.
5. Permit. A file of burial permits as required by state law showing the date of interment.

11.05.090 Cemetery Rules and Regulations

A. Resolution. The City Council shall adopt by resolution, and may from time to time amend, rules and regulations for the use, care, control, management, restriction and protection of the Cemetery. These rules and regulations may restrict and limit the use of all property in the Cemetery, regulate the uniformity, class and kind of all markers, monuments and other structures in the Cemetery, limit the erection of monuments, markers or other structures in or upon any part of the Cemetery, regulate monuments, effigies and structures in the Cemetery, regulate the introduction and care of landscaping plants in the Cemetery, prevent the interment in any part of the Cemetery of remains not entitled to interment, prevent the use of burial lots for purposes that violate the City's adopted rules and regulations, regulate the conduct of people, prevent improper gatherings or activities in the Cemetery, and regulate for all other purposes deemed necessary by the city council for the proper conduct of the business of the Cemetery and the protection and safeguarding of the cemetery properties and the principles, plans and ideals on which the Cemetery is established. The rules and regulations adopted by the council may provide different management and operation rules for Cemetery than for the State Road Cemetery as outlined in the *Mosier Pioneer Preservation Management Plan*.

B. Restrictions. The following acts, structures and activities are strictly prohibited in the Pioneer Cemetery:

1. Curbing. The construction, installation or repair of any curbing surrounding any lot or group of lots.
2. Fences and Enclosures. Erection or placement of fences or enclosures around graves or lots.
3. Crushed or Decorative Rock. Placement or installation of crushed or decorative rock.

4. Grading. All machine grading.

C. Requirements. The following requirements apply to construction, maintenance and repair within the Cemetery:

1. Repairing structures. No repairs to any grave marker or enclosure on lots shall be allowed without written consent of the Cemetery Superintendent and Cemetery Committee.
2. Urn Interment Depth. All graves dug shall be excavated to a depth such that the bottom of the grave is at a depth of between 24 and 30 inches, depending on the height of the urn or container holding the cremated remains. A minimum of 12 inches is needed over the top of the urn.
3. Lot improvement. No improvement or construction shall be made to any lot unless the improvement has been reviewed and approved in writing by the Cemetery Superintendent and Cemetery Committee.
4. Grave markers. All grave markers shall be of natural stone, no larger than a height of two feet, and a width and length which totals no more than four linear feet. If the grave marker has a concrete base, the base must be flush with the ground in a minimum width of not less than four inches on all sides. The existing grade shall be maintained.
5. Number of Gravemarkers. There may be the combination of one upright grave marker and/or small ground level markers, not to exceed one per cremated remains or a total of four total grave markers per lot.
6. Removal of Improvements. Existing plants, shrubs, etc. may be removed only by the City or with the express approval of the Cemetery Superintendent and Cemetery Committee. Only natural flowers and other natural decorations may be left at the gravesite. Other artificial, unapproved decorations shall be removed by the Superintendent or a designated party such as the Cemetery Committee.

D. Limitations on Use. The following limitations shall apply to activities in the Cemetery:

1. No automobile, motorcycle, skateboard, bicycle, truck, tractor, van, backhoe, crane, or any other vehicle and/or recreational equipment shall be permitted in the cemetery unless specifically authorized by the Superintendent.
2. All dogs must be leashed. Dog owners must clean up their pets' waste and dispose of it at their personal residence or in an appropriate trash container.
3. All work performed in the cemetery and the workers performing this work e.g., funeral home employees, grave diggers, and gravestone installers are subject to the control and regulations of the Superintendent.
4. All graves must be dug by hand or hand-held machinery.
5. No grave marker rubbings shall be made on the grave marker without prior approval of the Cemetery Superintendent.
6. No pets may be interred in the cemetery.

11.05.100 City Liability and Effect of Laws.

A. Limit on City's liability. The City of Mosier, its agents, officials and employees shall not be liable for the maintenance, care, or lack thereof, damage, vandalism, theft of any plants, ornaments, grave markers, monuments or human remains in or on any lot. The City shall not be liable when, at the discretion of the Cemetery Superintendent, grave ornaments are removed by Cemetery Superintendent or maintenance workers.

B. Effect of laws. In addition to the provisions of this chapter, all interments, disinterments and removals are subject to all applicable federal, state and Wasco County laws and regulations, in addition to any other applicable laws or regulations of the City of Mosier.